

# ADVISER

## CHANGES TO THE ROAD TRAFFIC ACT 1988

The Deregulation Act 2015 (the Act) received Royal Assent on 26 March 2015. The Act includes numerous areas where bureaucracy or regulation has been simplified or removed. One such area, addressed by Clause 9 of the Act, which comes into effect on 30 June 2015, is in relation to motor insurance and amends a number of provisions in the Road Traffic Act 1988 with respect to certificates of insurance.

These amendments and their implications are considered below.

### DELIVERY OF A CERTIFICATE OF INSURANCE IS NO LONGER A PRE-REQUISITE FOR THE POLICY TO BE LEGALLY EFFECTIVE

Under section 147 (1) and (2) of the Road Traffic Act 1988 a certificate of insurance must be issued to the policyholder in order for a policy to be legally effective. Initially, the government proposed to remove the need for a certificate of insurance and rely solely on the Motor Insurance Database (MID) as evidence of the insurance status of a vehicle. However, for commercial, practical, and cost benefit reasons, the Association of British Insurers (ABI) did not support the abolition of certificates of insurance. It was therefore agreed that the certificate of insurance would be retained in its current format but that its delivery would no longer be the “trigger” for policy validity.

#### IMPLICATIONS

Increasingly, many organisations, including the police, do not rely on the certificate of insurance as evidence that the vehicle is insured but use information held on the MID to evidence the existence of insurance. It is anticipated that this amendment will not therefore impact what has already become working practice.

Although the abolition of certificates of insurance and use of the MID as the single source for checking whether a vehicle and driver have valid insurance might be a longer term objective, in the short term, the ABI was opposed given the importance of blanket or open certificates of insurance to motor traders and fleet operators and the need for hard copy certificates of insurance for those travelling abroad. Additionally, the ABI contended there would need to be costly changes to the MID to make it fit for purpose if it were to be the sole legal proof/record of the existence of insurance. The saving in not issuing a certificate of motor insurance would be minimal given that the specified information it contains would still need to be issued in some form.

Therefore, although the issue of certificates of insurance will continue, the significance of the timeliness of their issue may vary depending on policy type. For example, for private car policies the prompt issue of a certificate of insurance may be of less importance whereas for other policy types, such as fleet, it is envisaged that certificates of insurance will need to continue to be issued promptly.

Additionally, policyholders will need to continue to notify vehicle additions/deletions promptly and insurers will need to continue to ensure that their procedures for adding policy and vehicle data to the MID are timely and accurate.

## REQUIREMENT TO RETURN A CERTIFICATE OF INSURANCE FOLLOWING MID-TERM POLICY CANCELLATION IS REVOKED

If a motor insurance policy is cancelled mid-term, section 147 (4) of the Road Traffic Act 1988 requires the policyholder to return the certificate of insurance or, if the certificate has been lost or destroyed, make a statutory declaration to that effect. Failure to return the certificate/make a statutory declaration is an offence under section 147 (5) of the Road Traffic Act 1988.

Where the certificate is not returned or a statutory declaration is not forthcoming, it is incumbent on the insurer to retrieve the certificate or issue declaration proceedings so as to avoid the risk of having to pay a third party claim on a contractual basis.

Clause 9 of the Act removes the legal requirement on the policyholder to return the certificate/make a statutory declaration (and not doing so is no longer an offence). In consequence, the insurer is relieved of the requirement to retrieve the certificate or to seek a declaration in order to end their contractual liability.

The MID record will be evidence of cover cancellation.

## IMPLICATIONS

As policyholders no longer have to return the certificate of insurance and insurers no longer have to incur administrative or legal costs in pursuing their recovery, the government's best estimate of the resultant potential saving is GBP1.20 per policy per annum over the ten year period 2014 - 2023. As the recording of cancelled policies on the MID is already undertaken by insurers, there is no increased cost to insurers in updating the MID.

Motor insurers will need to continue to ensure that their procedures for removing vehicles from the MID and recording policy cancellations are timely and accurate as, until such time as the MID has been updated, an insurer will remain liable as the Article 75 insurer (in respect of any statutory third party liability).

With the potential for insurers to more easily and clearly bring their liability to an end, some commentators have suggested that the number of uninsured claims being submitted to the Motor Insurers Bureau will increase and, if so, this may result in an increased levy for insurers. Whether this will be the case and, if so, whether such additional cost would be passed onto policyholders, may depend on whether an insurer experiences a corresponding cost saving due to fewer claims having to be dealt with on a statutory third party liability basis.

Additionally, insurers may wish to review the wording of any policy provisions relating to cancellation rights and obligations to ensure these are compliant with the changes brought about by Clause 9 of the Act.

## CONCLUSION

While the requirement for insurers to issue a certificate of insurance remains, the delivery of a certificate of insurance will no longer be a pre-requisite for the legal effectiveness of a policy. Removing the requirement for a policyholder to return the certificate of insurance in order to effect mid-term policy cancellation and instead using the MID record as evidence of such cancellation should result in economic, administrative, and time benefits.

The three month period between the passage of the Act and these Clause 9 provisions taking effect will allow time for motor insurers to, if required, make any amendments to the efficacy of the cancellation provisions within their wordings and to ensure their MID processes and internal procedures are robust and efficient.

For further information please contact your usual Marsh representative or e-mail [national.enquiries@marsh.com](mailto:national.enquiries@marsh.com)



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